

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ePLUS INC.,)	
)	
Plaintiff,)	Civil Action No. 3:09-CV-620 (REP)
)	
v.)	
)	
LAWSON SOFTWARE, INC.,)	
)	
)	
)	
Defendant.)	

**PLAINTIFF *ePLUS*, INC.’S MOTION FOR EXCEPTIONAL CASE FINDING AND
ATTORNEYS’ FEES PURSUANT TO 35 U.S.C. § 285**

Pursuant to 35 U.S.C. § 285 and this Court’s inherent powers, Plaintiff *ePlus*, Inc. (“*ePlus*”) respectfully requests that the Court declare this to be an exceptional case, and award *ePlus*, as the prevailing party, its reasonable attorney fees and non-taxable costs in prosecution of this action.

The bases for *ePlus*’s request are Defendant Lawson Software, Inc.’s (“Lawson”) presentation of baseless litigation defenses and vexatious litigation tactics, including: (1) repeated refusal to adhere to this Court’s orders limiting its invalidity theories to those timely disclosed in the Court-Ordered Second Supplemental Statement of Invalidity Defenses, (2) attempting to replace its expert disclosures after the close of discovery on the eve of trial and (3) arguing non-infringement to the jury and the Court based upon the notion that the catalogs of the accused Lawson product configurations were not “published by a vendor.”

ePlus therefore respectfully requests that the Court declare this to be an exceptional case and that the Court award *ePlus* its reasonable attorney fees in this action. The bases for this

motion are set forth in further detail in the accompanying brief in support. Consistent with Fed. R. Civ. P. 54(d), in the event the Court grants this motion, in whole or in part, ePlus will provide documentation of its reasonable attorney fees incurred in connection with these issues as the Court may require.

Respectfully submitted,

June 3, 2011

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of June, 2011, I will electronically file the foregoing

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with the Clerk of Court using the CM/ECF system which will then send a notification of such filing (NEF) via email to the following:

<p>Daniel McDonald, <i>pro hac vice</i> Kirsten Stoll-DeBell, <i>pro hac vice</i> William D. Schultz, <i>pro hac vice</i> Rachel C. Hughey, <i>pro hac vice</i> Andrew Lagatta, <i>pro hac vice</i> MERCHANT & GOULD 3200 IDS Center 80 South Eighth Street Minneapolis, MN 55402 Telephone: (612) 332-5300 Facsimile: 612) 332-9081 lawsonservice@merchantgould.com</p>	<p>Robert A. Angle, VSB#37691 Dabney J. Carr, IV, VSB #28679 TROUTMAN SANDERS LLP P.O. Box 1122 Richmond, Virginia 23218-1122 (804) 697-1238 (804) 698-5119 (Fax) robert.angle@troutmansanders.com dabney.carr@troutmansanders.com</p>
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